THE HON'BLE Mr. JUSTICE N.V. RAMANA

Writ Petition No.8832 of 2000

Dated: December 22, 2005

Between:

S. Goverdhan Rao (E.No. 28434)
S/o. Venkata Narasimham,
aged 55 years,
R/o. Quarter No.54, R.T.C. Labour
Colony, Vidyadharapuram,
Vijayawada – 12, Krishna District.

… Petitioner

And

The APSRTC rep. by its Vice Chairman
and Managing Director, Mushirabad,
Hyderabad, and two others.

… Respondents

Order:

Petitioner, by this writ petition, seeks Mandamus declaring the action of the respondents in not entering his correct date of birth, i.e. 12-02-1945 in the place of 05-05-1942 in his service book in spite of several representations, supported by documentary evidence, as arbitrary and illegal, and for a consequential direction to the respondents not to retire him before his actual date of superannuation.

2. Petitioner, appointed in the respondent-corporation as Khalasi on 12-05-1996, states that at the time of joining the corporation, he declared his date of birth as 12-02-1945 and in the medical examination held at the time of entry into service, he claims to have stated that he completed 21 years of age, and accordingly the doctors of the corporation determined and issued an age certificate, certifying him to be 22 years. It is the case of the petitioner that the respondents, by oversight, noted his date of birth as 05-05-1942 instead of 12-02-1945. On coming to know about the said mistake, he is said to have made a representation dated 20-03-1994 stating that his date of birth was not correctly noted in his personal data sheet and sought correction therein. The said representation of the petitioner was rejected on the following three grounds. -

1. You were appointed as Khalasi at Regional Stores, Vijayawada on 12-5-'66 vide Order No.E8/425/66/SPD/V, dt.11-5-66 and the date of birth was fixed as 5-5-42 in your appointment order.

2. You have also declared your date of birth as 5-5-'42 in the G.P.F. Nomination Form submitted by you on 6-9-'71.

3. You have been appointed with probationary rights and also confirmed in the post of Khalasi with effect from 15-4-'68. Hence, the alteration of date of birth at this stage cannot be agreed in terms of Cir.No.PD-70/1989, dt.20-6-89.

3. Thereafter, petitioner has filed the present writ petition contending that his date of birth is wrongly entered. According to the date of birth certificate issued by the Head Master, petitioner's date of birth is 12-02-1945, and hence, he contends that the respondents ought to have corrected his date of birth at least on the basis of the said certificate.

4. Counter affidavit has been filed by the respondents stating that when the petitioner was appointed, his date of birth was fixed as 05-05-1942 and once a date is entered in the Service Register, no alteration shall be

permitted subsequently. The petitioner, is aware of the date of birth that has been entered, and he having kept quiet for more than 27 years, filed a representation dated 03-02-1993 for the first time, enclosing some school certificates. The same was considered and proceedings dated 05-04-1994 were issued stating that there is no mistake in recording his date of birth and it is correct as per Regulation 19(2)(b) of APSRTC Employees' (Service) Regulations, 1964. It is stated that the petitioner accepted the proceedings dated 05-04-1994 and was satisfied with the same. It is mainly contended, that the petitioner, at the time of his appointment, failed to produce any evidence in support of his date of birth, as 12-02-1945, and his date of birth was entered basing on the Medical Certificate. If he was aggrieved by the said date, he should have submitted a representation immediately, along with necessary evidence. Moreover, he also submitted a Provident Fund declaration wherein he declared that his date of birth as 05-05-1942. Hence, the petitioner had to retire on 31-05-2000.

5. This Court, while admitting the writ petition, by its order dated 17-05-2000, in W.P.M.P.No.11395 of 2000, passed interim orders to continue the petitioner in service till his superannuation. Subsequently, the said interim order was vacated by this Court by order dated
31-07-2001.

6. Admittedly, the petitioner, at the time of joining service has not produced any documentary evidence for the reasons best known to him. Basing on the Medical Certificate, his date of birth was entered as
05-05-1942. Petitioner, is aware of the entry of his date of birth as
05-05-1942. Though, he claims that the said date of birth is wrong, he did not choose to challenge the same immediately, but waited for more than 25 years, and made a representation to the respondents, which was rejected by giving reasons, as extracted above. The present writ petition is based on the rejection order of the authorities. Having continued in service for several years, knowing that his date of birth was entered as 05-05-1942, petitioner cannot now contend that his service register does not reflect the correct date of birth.

7. For the foregoing reasons, the writ petition is liable to be dismissed and is accordingly dismissed. No costs.

8. Learned counsel for the petitioner, at this juncture, contended that by virtue of the

interim orders, petitioner continued in service upto 31-07-2001 and claims that petitioner may be paid salary for that period. Taking into consideration of the said fact, petitioner's request for salary upto 31-07-2001 and other attendant benefits, shall be considered by the respondents.

_____

N.V. RAMANA, J.

December 22, 2005

MRR